

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,) CRIMINAL NO. 17-00582JMS-WRP
Plaintiff,) Honolulu, Hawaii
vs.) October 22, 2019
LOUIS M. KEALOHA (2),) HEARING ON SENTENCING
Defendant.) AGREEMENT AND APPELLATE
WAIVER
UNITED STATES OF AMERICA,)
Plaintiff,) CRIMINAL NO. 18-00068JMS-WRP
vs.) CHANGE OF PLEA
LOUIS M. KEALOHA (2),)
Defendant.)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE J. MICHAEL SEABRIGHT
CHIEF UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: MICHAEL G. WHEAT, ESQ.
Special Attorney to the
Attorney General
United States Attorney's Office
880 Front Street, Room 6293
San Diego, California 92101
For Defendant RUSTAM A. BARBEE, ESQ.
Louis M. Kealoha: Attorney at Law
1188 Bishop Street, Suite 2606
Honolulu, Hawaii 96813

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2 Official Court
3 Reporter:

Cynthia Fazio, RMR, CRR, CRC
United States District Court
300 Ala Moana Blvd., C-270
Honolulu, Hawaii 96850

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25 Proceedings recorded by machine shorthand, transcript produced
with computer-aided transcription (CAT).

1 TUESDAY, OCTOBER 22, 2019 2:32 P.M.

2 THE COURTROOM MANAGER: Criminal Number
3 17-00582JMS-WRP, Criminal Number 18-00068JMS-WRP-2, United
4 States of America versus Louis M. Kealoha.

5 This case has been called for hearing on sentencing
6 agreement and appellate waiver for Criminal 17-00582 and a
7 change of plea hearing for Criminal 18-00068.

8 Counsel, please make your appearance for the record.

9 MR. WHEAT: Good afternoon, Your Honor. Michael Wheat
10 for the United States, joined by Laura Salazar at the table.

11 THE COURT: Yes.

12 MR. BARBEE: Good afternoon, Your Honor. Rustam
13 Barbee appearing with Louis M. Kealoha. He's present in court.

14 THE COURT: All right. Yes, good afternoon to both of
15 you.

16 All right. So, Mr. Kealoha, I understand that you
17 wish to enter a plea of guilty to Count 4 in Criminal Number
18 18-00068, what we've been calling the second case or the bank
19 fraud case, pursuant to a plea agreement, and at the same time
20 to enter into a sentencing agreement and appellate waiver in
21 17-582, the case that we just had a trial in; is that accurate,
22 sir?

23 DEFENDANT L. KEALOHA: Yes, sir.

24 THE COURT: Okay. I'm going to have you approach up
25 here then if you will with Mr. Barbee.

1 All right, sir, before I can accept your guilty plea
2 there are a number of questions I need to ask you to make
3 certain that your plea is knowing, valid and voluntary. So, if
4 you don't understand a question at any time please just ask me
5 to repeat or rephrase the question, I'll be happy to do that.

6 DEFENDANT L. KEALOHA: Yes.

7 THE COURT: And if you want to consult with Mr. Barbee
8 in private at any point during these proceedings, all you have
9 to do is ask me and I'll be happy to let you do so. Do you
10 understand all that?

11 DEFENDANT L. KEALOHA: Yes, sir.

12 THE COURT: All right. Can we swear the defendant,
13 please?

14 (The Defendant was sworn to answer truthfully.)

15 THE COURT: Do you understand you are now under oath
16 and if you answer any of my questions falsely, those false
17 answers could be used against you in a separate prosecution for
18 perjury or making a false statement?

19 DEFENDANT L. KEALOHA: Yes, sir.

20 THE COURT: What is your full legal name?

21 DEFENDANT L. KEALOHA: Louis Mahina Kealoha.

22 THE COURT: And how old are you, sir?

23 DEFENDANT L. KEALOHA: 59.

24 THE COURT: How far did you go in school?

25 DEFENDANT L. KEALOHA: I have a doctorate of

1 education.

2 THE COURT: All right. And you read and speak
3 English?

4 DEFENDANT L. KEALOHA: Yes, sir.

5 THE COURT: Okay. What is your most recent
6 employment?

7 DEFENDANT L. KEALOHA: The Honolulu Police Department.

8 THE COURT: Now, have you taken any illegal drugs in
9 the last 48 hours?

10 DEFENDANT L. KEALOHA: No, sir.

11 THE COURT: Have you had any alcohol in the last 48
12 hours?

13 DEFENDANT L. KEALOHA: No, Your Honor.

14 THE COURT: Have you taken any -- are you prescribed
15 any prescription drugs right now?

16 DEFENDANT L. KEALOHA: No, sir.

17 THE COURT: Have you taken any prescription drugs in
18 the last 48 hours?

19 DEFENDANT L. KEALOHA: No, Your Honor.

20 THE COURT: So you're clean and sober right now?

21 DEFENDANT L. KEALOHA: Yes, sir.

22 THE COURT: And you're thinking clearly?

23 DEFENDANT L. KEALOHA: Yes, sir.

24 THE COURT: Have you ever been treated for mental
25 illness or addiction to drug or alcohol?

1 DEFENDANT L. KEALOHA: No, sir.

2 THE COURT: Can you tell me in your own words what you
3 came to court to do today.

4 DEFENDANT L. KEALOHA: To plead guilty to the bank
5 fraud, Count 4.

6 THE COURT: All right. Now, have you had enough time
7 to talk to Mr. Barbee about the bank fraud case, the facts of
8 the case, and your decision to plead guilty as well as the
9 agreement set forth in the sentencing agreement and appellate
10 waiver in the mailbox trial?

11 DEFENDANT L. KEALOHA: Yes, Your Honor.

12 THE COURT: Are you fully satisfied with Mr. Barbee's
13 representation of you in this matter?

14 DEFENDANT L. KEALOHA: Yes, Your Honor.

15 THE COURT: Has anyone made any promise or assurance
16 to you of any kind in an effort to get you to plead guilty
17 other than what is in the plea agreement and the sentencing
18 agreement and appellate waiver?

19 DEFENDANT L. KEALOHA: No, Your Honor.

20 THE COURT: Has anyone threatened you or threatened
21 anyone else or forced you in any way to plead guilty?

22 DEFENDANT L. KEALOHA: No, Your Honor.

23 THE COURT: Are you pleading guilty of your own free
24 will because you are guilty?

25 DEFENDANT L. KEALOHA: Yes, Your Honor.

1 THE COURT: Mr. Barbee, do you have any reason to
2 doubt your client's competence to enter a valid and voluntary
3 plea?

4 MR. BARBEE: No, Your Honor, I don't.

5 THE COURT: So, you have reviewed the third
6 superseding indictment in 18-68, Mr. Kealoha?

7 DEFENDANT L. KEALOHA: Yes, Your Honor.

8 THE COURT: All right. And in brief, can you go over
9 Count 4 of that, Mr. Wheat?

10 MR. WHEAT: Count 4 as to what it is?

11 THE COURT: The first superseding indictment, right?

12 MR. WHEAT: Yes.

13 THE COURT: I'm sorry, the third superseding
14 indictment.

15 MR. WHEAT: Third superseding indictment. Count 4
16 involves a bank fraud allegation involving Mr. Kealoha and
17 Ms. Kealoha entering into a scheme to defraud the bank by
18 filing false documents relating to rental income to inflate
19 their assets to obtain a loan for \$150,000 from the Hawaii
20 Central Federal Credit Union.

21 THE COURT: All right. So, Mr. Kealoha, did you read
22 that charge?

23 DEFENDANT L. KEALOHA: Yes, sir.

24 THE COURT: And you went over it with Mr. Barbee?

25 DEFENDANT L. KEALOHA: Yes.

1 THE COURT: You understand it?

2 DEFENDANT L. KEALOHA: Yes.

3 THE COURT: Do you have any questions for me or
4 Mr. Barbee regarding that charge?

5 DEFENDANT L. KEALOHA: No.

6 THE COURT: Okay. So the maximum penalties,
7 Mr. Wheat?

8 MR. WHEAT: Your Honor, the maximum potential
9 penalties for that crime are up to 30 years in custody, a
10 \$1 million fine -- one second, Your Honor.

11 \$100 special assessment. Up to five years of
12 supervised release. An order of restitution and forfeiture of
13 property to the United States.

14 THE COURT: All right. Do you agree with that,
15 Mr. Barbee?

16 MR. BARBEE: Yes, Your Honor.

17 THE COURT: All right. Okay. So now we have this
18 plea agreement in addition to the sentencing agreement and
19 appellate waiver. So I'm going to start with this sentencing
20 agreement and appellate waiver, Mr. Kealoha.

21 As I understand the nature of this plea, you have to
22 sort of agree to be bound to both of these agreements for
23 either one of them to be operative; do you understand that?

24 DEFENDANT L. KEALOHA: Yes, sir.

25 THE COURT: In other words, they're sort of married

1 together, right?

2 DEFENDANT L. KEALOHA: Yes.

3 THE COURT: Okay. So under the sentencing agreement,
4 you agree and stipulate that the facts set forth in the
5 presentence report in this case, which is ECF docket number
6 888, are true and accurate and should be considered as relevant
7 conduct for your sentencing; do you understand that?

8 DEFENDANT L. KEALOHA: Yes, sir.

9 THE COURT: That means you're admitting to the facts
10 set forth in that report; do you understand that?

11 DEFENDANT L. KEALOHA: Yes.

12 THE COURT: And you're admitting those as true?

13 DEFENDANT L. KEALOHA: Yes, sir.

14 THE COURT: All right. Now, there are a number of
15 agreements as to sentencing. You were here when I went over
16 this with Mrs. Kealoha, but let me make sure you understand
17 this. Okay. If you'll go to Page 4 of the sentencing
18 agreement, and the same information should be set forth in the
19 plea agreement on Page 11 as well. So for the -- you're
20 agreeing to have both the bank fraud and the mailbox cases
21 consolidated for sentencing, you understand that?

22 DEFENDANT L. KEALOHA: Yes.

23 THE COURT: Okay. And I'm agreeing to that, you
24 understand that?

25 DEFENDANT L. KEALOHA: Yes, sir.

1 THE COURT: Okay. So as far as the first case,
2 17-582, both parties are agreeing under the United States
3 sentencing guidelines the base offense level is 19; do you
4 understand that?

5 DEFENDANT L. KEALOHA: Yes.

6 THE COURT: Then the government apparently is going to
7 be seeking upward adjustments of one for plus six levels, one
8 for plus two and another for plus two.

9 DEFENDANT L. KEALOHA: Yes.

10 THE COURT: You are free to challenge those upward
11 adjustments under the guidelines; do you understand that?

12 DEFENDANT L. KEALOHA: Yes.

13 THE COURT: For the bank fraud case, you and the
14 government are in total agreement as to what those guidelines
15 would look like.

16 DEFENDANT L. KEALOHA: Yes.

17 THE COURT: Which would be a base offense level seven,
18 plus two under 2B1.1(b)(2)(A), and plus two for 2B1.1(b)(17).
19 Is that (b)(17), Mr. --

20 MR. WHEAT: I think it should be (b)(7).

21 THE COURT: (b)(7)? Okay. Mr. Barbee, do you know
22 offhand?

23 MR. BARBEE: No.

24 THE COURT: I can look --

25 MR. BARBEE: I didn't bring my book.

1 THE COURT: I can look. All right. We can make that
2 change. I think it should be (b)(7) also. 2B1.1(b)(7)?

3 MR. WHEAT: So it should be B1 -- let's see what it is
4 here -- plus two should be --

5 THE COURT: Oh, no, it is 17.

6 MR. WHEAT: 17.

7 THE COURT: Okay. It's just there's a bracket instead
8 of a --

9 MR. WHEAT: Yeah, it should be a bracket.

10 THE COURT: -- parenthetical. Okay. All right.
11 That's fine. I think it's clear enough then.

12 MR. WHEAT: Yup.

13 THE COURT: All right. So you agree there's an
14 agreement -- you understand there's an agreement as to those
15 guidelines?

16 DEFENDANT L. KEALOHA: Yes, sir.

17 THE COURT: Okay. All right. So you also understand
18 the government's agreeing that however I determine the
19 guidelines apply here, and that's still an unknown, you
20 understand that, right?

21 DEFENDANT L. KEALOHA: Yes, sir.

22 THE COURT: Whatever I determine, it will recommend a
23 sentence within that advisory guideline range; do you
24 understand that?

25 DEFENDANT L. KEALOHA: Yes, sir.

1 THE COURT: Okay. And you will not be able to
2 recommend any downward adjustments or departures, but you can
3 request a lower sentence based on the 3553(a) factors; do you
4 understand that?

5 DEFENDANT L. KEALOHA: Yes, sir.

6 THE COURT: Okay.

7 MR. BARBEE: Yes, Your Honor, it's also our
8 understanding with the final presentence report, there's two
9 additional enhancements that I think we're reserving our right
10 to object to.

11 THE COURT: Which ones are those?

12 MR. BARBEE: I believe Probation gave him a
13 three-level role in the offense instead of what the --

14 THE COURT: Okay. Okay.

15 MR. BARBEE: And then there was an additional one for
16 abuse of public trust.

17 THE COURT: Okay. All right. So yes, essentially
18 you're agreeing to the bank fraud, agreeing to a base 19 on the
19 mailbox, but you're free to otherwise object.

20 MR. BARBEE: Yes.

21 THE COURT: Is that a fair statement?

22 MR. BARBEE: Yes, Your Honor.

23 THE COURT: Okay. As far as the offense levels?
24 Okay. All right.

25 Also, the parties estimate the total amount of

1 restitution for the mailbox case is \$289,714.96; do you
2 understand that?

3 DEFENDANT L. KEALOHA: Yes.

4 THE COURT: Now, the government's going to be asking
5 that you be responsible for 25 percent of that, such that you
6 would be responsible to Gerard Puana in the amount of 11,565.25
7 and Florence Puana in the amount of 60,863.49; do you
8 understand that?

9 DEFENDANT L. KEALOHA: Yes, sir.

10 THE COURT: Again, you understand none of this is
11 binding on me?

12 DEFENDANT L. KEALOHA: Yes.

13 THE COURT: Okay. All right. Now, do you also
14 understand both the plea agreement and the sentencing agreement
15 and appellate waiver for both the mailbox case and then the
16 bank fraud case, you are waiving or giving up to the full
17 extent of the law your right to appeal to the Ninth Circuit
18 Court of Appeals or to bring any sort of what we call
19 collateral challenge to the conviction or sentence; do you
20 understand that?

21 DEFENDANT L. KEALOHA: Yes, sir.

22 THE COURT: Now, I know you're not a lawyer, so I'm
23 going to explain this in a little more detail. Okay. Normally
24 after a conviction and sentence here in federal court there are
25 two ways by which you can challenge a conviction and/or

1 sentence that you thought was unlawful or unconstitutional.

2 The first is to appeal to the Ninth Circuit Court of
3 Appeals. And that court sits to determine if errors are made
4 here at the trial court level.

5 The second way, we call it a collateral challenge.
6 That's sort of a fancy way of just saying you come to me and
7 asking for some relief. Okay. Typically you do it through a
8 2255 motion, but there are other ways to do it as well. This
9 morning I talked about a coram nobis or other habeas rights.
10 Through this plea agreement you're waiving your right to bring
11 any sort of appeal or collateral challenge to either the trial
12 that just concluded or to your plea to the bank fraud count,
13 with one exception; do you understand that?

14 DEFENDANT L. KEALOHA: Yes, sir.

15 THE COURT: The exception is you can bring a claim of
16 ineffective assistance of counsel; do you understand that?

17 DEFENDANT L. KEALOHA: Yes.

18 THE COURT: Otherwise you're giving up all your rights
19 to appeal or bring any other collateral challenge; do you
20 understand?

21 DEFENDANT L. KEALOHA: Yes.

22 THE COURT: Now, do you also understand the government
23 may appeal the sentence that I impose in this case?

24 DEFENDANT L. KEALOHA: Yes.

25 THE COURT: You understand that?

1 DEFENDANT L. KEALOHA: Yes.

2 THE COURT: Finally, do you understand that if you
3 breach one of the conditions either in the -- in the sentencing
4 agreement and appellate waiver or the plea agreement, any
5 statements made by you under oath at the hearing here today and
6 the factual stipulation in Paragraph 2 of this agreement, and
7 any evidence derived from such statements would be admissible
8 against you in any prosecution; do you understand that?

9 DEFENDANT L. KEALOHA: Yes, sir.

10 THE COURT: And you would be waiving or giving up your
11 rights whether under the Constitution or the laws of the United
12 States or Rule 11(f) of the Rules of Criminal Procedure or Rule
13 410 of the Federal Rules of Evidence to argue otherwise; do you
14 understand that?

15 DEFENDANT L. KEALOHA: Yes.

16 THE COURT: Okay. And do you understand that when you
17 go to Paragraph 2 that takes you back to the agreement that all
18 of the facts set forth in the presentence report are true and
19 accurate; do you understand that?

20 DEFENDANT L. KEALOHA: Yes.

21 THE COURT: All right. Do you have any questions for
22 me about the sentencing agreement and appellate waiver?

23 DEFENDANT L. KEALOHA: No, Your Honor.

24 THE COURT: Mr. Barbee, Mr. Wheat, is there anything
25 else in that agreement you want me to cover?

1 MR. WHEAT: No, Your Honor.

2 MR. BARBEE: No, Your Honor.

3 THE COURT: All right. So let's go back to the plea
4 agreement then. Okay. We went over the maximum penalties,
5 correct?

6 DEFENDANT L. KEALOHA: Yes.

7 THE COURT: And you understand those?

8 DEFENDANT L. KEALOHA: Yes, sir.

9 THE COURT: Okay. So as I understand this plea
10 agreement, you're agreeing to plead guilty to Count 4 and the
11 government will move after sentencing to dismiss the remaining
12 charges against you; do you understand that?

13 DEFENDANT L. KEALOHA: Yes, sir.

14 THE COURT: You're also agreeing that the statements
15 of facts set forth in Paragraph 7 of the plea agreement are
16 true and accurate; do you understand that?

17 DEFENDANT L. KEALOHA: Yes, sir.

18 THE COURT: Now, just like with the sentencing
19 agreement and appellate waiver, you are waiving or giving up
20 your right to bring any sort of appeal or collateral challenge
21 other than the claim of ineffective assistance; do you
22 understand that?

23 DEFENDANT L. KEALOHA: Yes, sir.

24 THE COURT: Now, if I look at Paragraph 21, it deals
25 with forfeiture, it says you agree to forfeit a money judgment

1 in the amount of 228,746.79, then proceeds of 63,476.97 and a
2 Rolex watch. Subparagraph (3), the Hawaii Kai property is
3 really moot, is not relevant now, correct, Mr. Wheat?

4 MR. WHEAT: That is correct, Your Honor.

5 THE COURT: Because that's -- the home had sold and
6 the proceeds from that that remain are reflected in Sub 2.

7 MR. WHEAT: Correct.

8 THE COURT: Okay. Now, from what I understood with
9 the last plea, it's unclear if the government will seek the
10 full 228 plus change and the 63, but they could do so; do you
11 understand that?

12 DEFENDANT L. KEALOHA: Yes, sir.

13 THE COURT: And also the Rolex watch will be
14 forfeited; do you understand that?

15 DEFENDANT L. KEALOHA: Yes, sir.

16 THE COURT: And you also through this plea agreement
17 agree to cooperate in the entire forfeiture process, provide a
18 signature where needed, agree to a preliminary order of
19 forfeiture, essentially there are a lot of steps that have to
20 be taken and you agree to cooperate in the execution of all of
21 that; do you understand that?

22 DEFENDANT L. KEALOHA: Yes, sir.

23 THE COURT: Do you have any questions regarding any of
24 that?

25 DEFENDANT L. KEALOHA: No, sir.

1 THE COURT: As far as restitution, Page 19,
2 Paragraph 22(c) says: The parties estimate the amount of
3 restitution will be 165,269.82 to persons other than the victim
4 of Count 4, to the -- for the offenses to which he has pled
5 guilty. So what does that include, Mr. Wheat, exactly?

6 MR. WHEAT: That includes the money to Ransen Taito
7 and Ariana Taito.

8 THE COURT: Okay. I see. So that's -- that's the
9 full amount?

10 MR. WHEAT: Correct.

11 THE COURT: Okay. I see. So on Ransen Taito it's
12 81,384.91. For Ariana it would be 83,884.91. And is it your
13 view that would be joint and several then, Mr. Wheat?

14 MR. WHEAT: Correct.

15 THE COURT: All right. So the government's view on
16 this is that would be joint and several with Mrs. Kealoha. In
17 other words, you don't pay it twice, but each of you would be
18 responsible for the payment of it; do you understand that?

19 DEFENDANT L. KEALOHA: Yes.

20 THE COURT: Okay. Do you have any questions regarding
21 that?

22 DEFENDANT L. KEALOHA: No.

23 (Counsel and client conferring.)

24 THE COURT: You okay?

25 DEFENDANT L. KEALOHA: Yes, sir.

1 THE COURT: Okay. So, also set forth in the plea
2 agreement, like the sentencing agreement, appellate waiver, if
3 you breach this plea agreement you understand that any
4 statements you made today, the factual basis statement in
5 Paragraph 7 of the plea agreement and evidence derived from the
6 statements may be used against you in any future proceeding and
7 you waive your right to argue otherwise; do you understand
8 that?

9 DEFENDANT L. KEALOHA: Yes, sir.

10 THE COURT: Okay. You also agree to fully cooperate
11 with the United States; is that right?

12 DEFENDANT L. KEALOHA: Yes, sir.

13 THE COURT: Okay. I want to make sure you understand
14 the nature of that. I'm not going to get into what that
15 entails, I'm just going to ask you some questions about the
16 nature of that.

17 Under United States sentencing guidelines
18 Section 5K1.1, before sentencing the government can move,
19 asking for a reduced sentence based on your cooperation. Or if
20 it comes after sentencing, it would be pursuant to Rule 35(b)
21 of the Federal Rules of Criminal Procedure.

22 With Mrs. Kealoha I talked about 3553(e). That
23 doesn't apply to you because you don't have any mandatory
24 minimum sentencing. Do you understand that?

25 DEFENDANT L. KEALOHA: Yes, sir.

1 THE COURT: Because the aggravated identity theft
2 applies only to her, do you understand?

3 DEFENDANT L. KEALOHA: Yes, sir.

4 THE COURT: Okay. So what I want to make sure you
5 understand is, that the decision as to whether to file a
6 motion, whether under 5K1.1 of the guidelines or
7 Section 35(b) -- I'm sorry, Rule 35(b) of the Rules of Criminal
8 Procedure, the decision whether to file such a motion rests
9 entirely with the United States Attorney's Office for the
10 Southern District of California; do you understand that?

11 DEFENDANT L. KEALOHA: Yes. Yes, sir.

12 THE COURT: You cannot force them to file that motion
13 nor can you have me force them to file that motion. It rests
14 entirely with them in making that decision; do you understand
15 that?

16 DEFENDANT L. KEALOHA: Yes, sir.

17 THE COURT: Do you understand this agreement does not
18 require them to make such a motion?

19 DEFENDANT L. KEALOHA: Yes, sir.

20 THE COURT: You understand that in the event they do
21 file a motion, and whether I grant the motion is within my
22 discretion. If I do grant it, how far down I go is also in my
23 discretion; do you understand that?

24 DEFENDANT L. KEALOHA: Yes, sir.

25 THE COURT: Do you also understand that if such a

1 motion is not filed for any reason, which again, you can't
2 control and I can't control, right, as far as making them do
3 it, you won't be able to withdraw from the plea agreement; do
4 you understand that?

5 DEFENDANT L. KEALOHA: Yes, sir.

6 THE COURT: Okay. Do you have any questions about
7 that?

8 DEFENDANT L. KEALOHA: No, sir.

9 THE COURT: Are there any other terms of this plea
10 agreement I didn't go over, counsel, that you believe I should?

11 MR. WHEAT: No, Your Honor.

12 MR. BARBEE: No, Your Honor.

13 THE COURT: So you have entered into this written plea
14 agreement with the United States, correct?

15 DEFENDANT L. KEALOHA: Yes, sir.

16 THE COURT: Did you read that entire agreement?

17 DEFENDANT L. KEALOHA: Yes, sir.

18 THE COURT: Did you then sign it?

19 DEFENDANT L. KEALOHA: Yes.

20 THE COURT: Well, let me back up. After you read it,
21 did you discuss it with Mr. Barbee?

22 DEFENDANT L. KEALOHA: Yes, sir.

23 THE COURT: And did you then sign it?

24 DEFENDANT L. KEALOHA: Yes, sir.

25 THE COURT: Okay. So at the time you signed it, did

1 you understand all the terms of the plea agreement?

2 DEFENDANT L. KEALOHA: Yes, sir.

3 THE COURT: Meaning you were able to discuss it and
4 get all answers from Mr. Barbee --

5 DEFENDANT L. KEALOHA: Yes, sir.

6 THE COURT: -- to your questions?

7 Okay. And is that your signature on the last page of
8 the plea agreement?

9 DEFENDANT L. KEALOHA: Yes, sir.

10 THE COURT: Is it the same for the sentencing
11 agreement, is that your signature?

12 DEFENDANT L. KEALOHA: Yes, sir.

13 THE COURT: Likewise, you signed that after reading it
14 and discussing it with Mr. Barbee?

15 DEFENDANT L. KEALOHA: Yes, sir.

16 THE COURT: And understanding it?

17 DEFENDANT L. KEALOHA: Yes, sir.

18 THE COURT: Does the plea agreement and the sentencing
19 agreement and appellate waiver reflect the entirety of the
20 agreement -- of the agreements you have with the United States
21 in this matter?

22 DEFENDANT L. KEALOHA: Yes, sir.

23 THE COURT: There are no side agreements?

24 DEFENDANT L. KEALOHA: No, sir.

25 THE COURT: No other agreements at all?

1 DEFENDANT L. KEALOHA: No, sir.

2 THE COURT: No oral agreements, anything like that?

3 DEFENDANT L. KEALOHA: No, sir.

4 THE COURT: Do you understand I am not required to
5 accept these agreements but can reject them after reviewing a
6 presentence report?

7 DEFENDANT L. KEALOHA: Yes, sir.

8 THE COURT: Now, I covered this this morning a lot
9 because there are a lot of agreements in both the sentencing
10 agreement and appellate waiver and the plea agreement. There
11 are a number of stipulations. And the stipulations are binding
12 on you and are binding on the United States, the two parties,
13 you and the United States have agreed on a lot of matters, and
14 you will be bound by that, you can't back off that at
15 sentencing.

16 DEFENDANT L. KEALOHA: Yes, sir.

17 THE COURT: But I want to make sure you understand I
18 am not bound by that, but I in my discretion could reject a
19 stipulation --

20 DEFENDANT L. KEALOHA: Yes, sir.

21 THE COURT: -- between the parties, you understand
22 that?

23 DEFENDANT L. KEALOHA: Yes, sir.

24 THE COURT: All right. Now, I want to go over some
25 important rights that you give up by entering a plea of guilty

1 here today.

2 Do you understand under the Constitution and laws of
3 the United States, you have a right to persist in a plea of not
4 guilty as to the bank fraud case, 17-582 -- I'm sorry, as to
5 the bank fraud case, 18-68, you have a right to persist in a
6 plea of not guilty and are entitled to a trial on those charges
7 against you?

8 DEFENDANT L. KEALOHA: Yes, sir.

9 THE COURT: Now, you waived earlier your right to a
10 jury trial on that.

11 DEFENDANT L. KEALOHA: Yes, sir.

12 THE COURT: So I'm going to talk about this as if I
13 was going to try the case. Okay?

14 DEFENDANT L. KEALOHA: Okay, sir.

15 THE COURT: All right. Do you understand at trial you
16 would be presumed innocent and the government would have the
17 burden to present evidence to prove your guilt beyond a
18 reasonable doubt, this means at no time would you have the
19 burden to prove that you are not guilty; do you understand
20 that?

21 DEFENDANT L. KEALOHA: Yes, sir.

22 THE COURT: To be found guilty as to each individual
23 charge, I would have to make a finding of guilt beyond a
24 reasonable doubt as to each essential element; do you
25 understand that?

1 DEFENDANT L. KEALOHA: Yes, sir.

2 THE COURT: And if for some reason it went to trial by
3 jury, a jury of 12 impartial citizens would have to make that
4 same finding; do you understand that?

5 DEFENDANT L. KEALOHA: Yes, sir.

6 THE COURT: Okay. Do you understand that if you wish
7 to go to trial, Mr. Barbee would stay with you throughout that
8 trial process free of charge?

9 DEFENDANT L. KEALOHA: Yes, sir.

10 THE COURT: Do you understand that at a trial you
11 would have the right to see and hear all the government
12 witnesses, and have them questioned or what we call
13 cross-examined by your attorney?

14 DEFENDANT L. KEALOHA: Yes, sir.

15 THE COURT: You could object to evidence offered by
16 the government and you could offer evidence on your own behalf
17 and you could force or compel witnesses to appear in court to
18 testify using the court's subpoena power; do you understand
19 that?

20 DEFENDANT L. KEALOHA: Yes, sir.

21 THE COURT: Now, if you went to trial in the bank
22 fraud case, after the government rests, in the defense case you
23 would have a decision to make, and that is whether to testify
24 or not to testify. And you would have an absolute right to
25 testify and you would have an absolute constitutional right not

1 to testify. But the decision whether to testify or not to
2 testify is a decision that you would have to make. Presumably
3 Mr. Barbee would give you his best advice, but at the end of
4 the day, just like the decision to plead guilty is yours and
5 not Mr. Barbee's, the decision if you went to trial whether to
6 testify would be your decision and not Mr. Barbee's. Do you
7 understand that?

8 DEFENDANT L. KEALOHA: Yes, sir.

9 THE COURT: And if you elected or chose to testify,
10 you would get on the witness stand and testify, and I would
11 tell the jury to gauge or judge your believability using the
12 same standards as they apply to all other witnesses; do you
13 understand that?

14 DEFENDANT L. KEALOHA: Yes, sir.

15 THE COURT: And if you chose not to testify, the jury
16 could not hold that fact against you because I would tell the
17 jury as a matter of law that they could draw no inference or
18 suggestion of guilt because you did not testify. Do you
19 understand all that?

20 DEFENDANT L. KEALOHA: Yes, sir.

21 THE COURT: All right. Do you understand that by
22 entering a plea of guilty, if I accept your plea, there will be
23 no trial and you will have waived or given up your right to a
24 trial as well as all these other rights we just discussed?

25 DEFENDANT L. KEALOHA: Yes, sir.

1 THE COURT: Do you also understand you have to give up
2 your right to remain silent as to Count 4 of the third
3 superseding indictment in 18-68 because I will ask you
4 questions of what you did that makes you guilty?

5 DEFENDANT L. KEALOHA: Yes, sir.

6 THE COURT: Do you have any questions for me or
7 Mr. Barbee regarding these rights?

8 DEFENDANT L. KEALOHA: No, sir.

9 THE COURT: Knowing these rights do you still wish to
10 go forward with your plea of guilty?

11 DEFENDANT L. KEALOHA: Yes, sir.

12 THE COURT: You are a U.S. citizen, correct?

13 DEFENDANT L. KEALOHA: Yes.

14 THE COURT: So this is a felony offense and that means
15 if you are convicted and if I adjudge you guilty, you may be
16 deprived of valuable civil rights, that includes the right to
17 vote, the right to hold public office, the right to serve on a
18 jury and the right to possess any type of firearm or
19 ammunition; do you understand that?

20 DEFENDANT L. KEALOHA: Yes, sir.

21 THE COURT: You aren't currently charged or serving
22 any sort of criminal sentence in any other court; that's
23 correct?

24 DEFENDANT L. KEALOHA: Yes, sir.

25 THE COURT: Okay. All right. Let's talk about

1 sentencing a little bit. The United States law does set forth
2 these detailed sentencing guidelines that I must consider at
3 the time I impose sentence. These guidelines are advisory only
4 and in addition to them I must consider other sentencing
5 factors set forth in the law at 18 U.S.C. Section 3553(a). So
6 have you and Mr. Barbee discussed the sentencing guidelines and
7 these other sentencing factors and how they may apply in your
8 case?

9 DEFENDANT L. KEALOHA: Yes, sir.

10 THE COURT: Do you understand that you will not know
11 what the final guideline calculation is until the day of
12 sentencing because the way the system works is, you will file
13 objections -- first of all, let me back up.

14 A new report will be prepared because the report
15 that's been prepared already only deals with the bank -- I'm
16 sorry, the mailbox case, not the bank fraud case. So a
17 consolidated report will be prepared.

18 In the interim I said we're going to have this hearing
19 to make some -- some decisions that cut across all four
20 defendants from the first trial. But there will be individual
21 issues that will apply to your case. And only on the day of
22 sentencing would I rule on any objections to the report and
23 then announce what the actual guidelines are; do you understand
24 that?

25 DEFENDANT L. KEALOHA: Yes, sir.

1 THE COURT: Do you understand that after I determine
2 the guidelines, I will consider the guidelines and the other
3 sentencing factors, and I may impose a sentence below the
4 guideline range, within the guideline range, or above the
5 guideline range; do you understand that?

6 DEFENDANT L. KEALOHA: Yes, sir.

7 THE COURT: Do you understand if the sentence is worse
8 or more severe than you had hoped or expected to receive or
9 worse or more severe than called for by the guidelines, you
10 will not be able to withdraw from your plea of guilty; do you
11 understand that?

12 DEFENDANT L. KEALOHA: Yes, sir.

13 THE COURT: In other words, there's no buyer's
14 remorse. You get that?

15 DEFENDANT L. KEALOHA: Yes.

16 THE COURT: All right. Now, you may have had
17 discussions with Mr. Barbee and maybe others as to the type of
18 sentence you may receive. As I think I said this morning,
19 there's been certain press reports as to what the sentence may
20 look like, but I want to make sure you understand nothing
21 Mr. Barbee has told you or anyone else has told you or what
22 anyone may be reporting is binding on me in any way, but I can
23 sentence you up to the maximum permitted by law; do you
24 understand that?

25 DEFENDANT L. KEALOHA: Yes.

1 THE COURT: Has anyone made any promise to you of any
2 sort as to what your sentence will be?

3 DEFENDANT L. KEALOHA: No, sir.

4 THE COURT: Do you understand there is no limitation
5 on the information that I may consider at the time of
6 sentencing concerning your background, character and conduct,
7 provided the information is sufficiently reliable?

8 DEFENDANT L. KEALOHA: Yes, sir.

9 THE COURT: Do you understand that if you are
10 sentenced to prison, a term of supervised release will follow,
11 and if you violate a condition of supervised release you can be
12 sent back to prison?

13 DEFENDANT L. KEALOHA: Yes, sir.

14 THE COURT: Do you understand there is no parole in
15 the federal system? There is a good time credit that you may
16 be entitled to, but there is no parole; do you understand that?

17 DEFENDANT L. KEALOHA: Yes, sir.

18 THE COURT: And we've already gone over restitution
19 and forfeiture.

20 Is there anything else on the restitution or
21 forfeiture, Mr. Wheat?

22 MR. WHEAT: No, Your Honor.

23 THE COURT: Okay. All right. So, Mr. Wheat, can you
24 go over the elements of bank fraud?

25 MR. WHEAT: Certainly, Your Honor. The elements for

1 bank fraud are defendant knowingly carried out a scheme or plan
2 to obtain money or property from a financial institution by
3 making false statements or promises.

4 Second, the defendant knew the statements or promises
5 were false.

6 Third, the statements or promises were material, that
7 is, they had a natural tendency to influence or were capable of
8 influencing a financial institution to part with money or
9 property.

10 Four, defendant acted with the intent to defraud and
11 the financial institution was federally insured.

12 THE COURT: All right. Mr. Barbee, let me start with
13 you and ask you if you agree.

14 MR. BARBEE: Yes, I do agree, Your Honor.

15 THE COURT: And turn to you, Mr. Kealoha, do you
16 understand?

17 DEFENDANT L. KEALOHA: Yes, sir.

18 THE COURT: Okay. I'm now going to ask Mr. Wheat to
19 provide an overview of sort of the summary -- or summary of the
20 evidence he believes he can present if the case went to trial.
21 I want you to listen -- as to Count 4. I want you to listen
22 carefully because when he's done I'm going to ask you if you
23 agree or disagree in whole or in part with what he stated here
24 in court.

25 DEFENDANT L. KEALOHA: Yes, sir.

1 MR. WHEAT: Your Honor, there's a more detailed
2 factual basis set forth at Pages 4 through 6 in Paragraph 7 of
3 the plea agreement. But specifically as to Count 4, if this
4 matter were to go to trial, the United States would be able to
5 prove beyond a reasonable doubt that during June of 2012
6 defendant and co-defendant Katherine Kealoha applied for a loan
7 with the Hawaii Central Federal Credit Union, a second mortgage
8 loan in the amount of \$150,000 on their then-residence 1018
9 Kealaolu Avenue.

10 And in doing so they obtained these funds by false
11 pretense. Specifically, that in June of 2012 Katherine Kealoha
12 submitted a forged Hawaii residential lease agreement in the
13 name of Minh-Hung Bobby Nguyen and Maile Nguyen to give the
14 false impression that defendant Louis Kealoha and Katherine
15 Kealoha received rental income from these two individuals each
16 month.

17 On or about July of 2012 Louis Kealoha and his
18 co-defendant Katherine Kealoha falsely certified in a Form 1003
19 loan application that they had -- they received over \$2,700 per
20 month in rental income.

21 Based upon these material false representations and
22 promises, the credit union granted Louis Kealoha and Katherine
23 Kealoha's mortgage application in the amount of \$150,000.

24 Since this loan was ultimately paid in full, there's
25 no loss from that loan.

1 Hawaii Central Federal Credit Union was a credit union
2 with accounts insured by the National Credit Union
3 Administration. And the defendant admits that the proceeds
4 from the sale of the residence at 7014 Niumalu Loop here in
5 Honolulu, namely \$63,476.97, constituted proceeds derived from
6 his criminal conduct in this case and therefore subject to
7 criminal forfeiture.

8 Basically, those proceeds from the sale of that house,
9 they used the proceeds from 1018 to buy Niumalu. So they're
10 proceeds from that account.

11 THE COURT: All right. So, Mr. Kealoha, did you
12 understand everything that Mr. Wheat just stated?

13 DEFENDANT L. KEALOHA: Yes, sir.

14 THE COURT: Is everything he stated true and accurate?

15 DEFENDANT L. KEALOHA: Yes.

16 THE COURT: Okay. So why don't you tell me in your
17 own words what you did that makes you guilty of Count 4.

18 DEFENDANT L. KEALOHA: Your Honor, just basically I
19 knew my wife and I submitted a loan application claiming that
20 we received rental income from the pool house.

21 THE COURT: Pool, P-O-O-L?

22 DEFENDANT L. KEALOHA: Pool.

23 THE COURT: Swimming pool?

24 DEFENDANT L. KEALOHA: Yes, yes. Swimming pool house
25 when we did not.

1 THE COURT: Okay. So let's back up a step. Okay. So
2 first of all, we're talking about a June 2012 application to
3 the Hawaii Central Federal Credit Union; is that right?

4 DEFENDANT L. KEALOHA: Yes.

5 THE COURT: And that was for a second mortgage in the
6 amount of \$150,000?

7 DEFENDANT L. KEALOHA: Yes.

8 THE COURT: Okay. The factual basis talks about a
9 Form 1003. Is that the credit union's standard form of some
10 sort?

11 MR. WHEAT: Credit union standard loan application
12 form and he would have executed under penalty of perjury.

13 THE COURT: Okay. All right. So, you understand that
14 Form 1003 that's being referenced to is the loan application
15 and you agree that you signed that loan application?

16 DEFENDANT L. KEALOHA: Yes.

17 THE COURT: And in that loan application did you --
18 well, did you fill that out or did your wife fill out the
19 application?

20 DEFENDANT L. KEALOHA: She filled it out.

21 THE COURT: Okay. But you -- you signed it?

22 DEFENDANT L. KEALOHA: Yes.

23 THE COURT: Okay. And you knew what was on the
24 application?

25 DEFENDANT L. KEALOHA: Yes.

1 THE COURT: Okay. And was there something false
2 included in that application that you knew was false?

3 DEFENDANT L. KEALOHA: Yes.

4 THE COURT: And what was that?

5 DEFENDANT L. KEALOHA: The rental agreement from the
6 swimming pool house that we received funds when indeed -- for
7 renting the pool house when indeed we did not.

8 THE COURT: Okay. So -- and we heard in the first
9 trial, right, that Bobby Nguyen and his then-wife were living
10 in the pool house, right? Certain amount of testimony about
11 that.

12 DEFENDANT L. KEALOHA: Yes.

13 THE COURT: So they were in fact living in the pool
14 house; is that right?

15 DEFENDANT L. KEALOHA: Yes.

16 THE COURT: But they were not paying rent?

17 DEFENDANT L. KEALOHA: Can I speak with him for a
18 second?

19 THE COURT: Sure. Yes. Yes. If you want you can go
20 over here, may be a little more private.

21 (Pause in the proceedings.)

22 THE COURT: Mr. Kealoha, if you need more time I'm
23 happy to leave the bench if you need it.

24 DEFENDANT L. KEALOHA: I'm good, sir. Thank you.

25 THE COURT: Are you sure?

1 DEFENDANT L. KEALOHA: Yes.

2 THE COURT: Okay. So can you answer my question?

3 DEFENDANT L. KEALOHA: The -- they weren't paying
4 rent, but every now and then they would give us money to pay
5 for utilities and things like that.

6 THE COURT: Okay. So they were sort of covering
7 costs?

8 DEFENDANT L. KEALOHA: Yes.

9 THE COURT: But you weren't receiving \$2700 a month?

10 DEFENDANT L. KEALOHA: No.

11 THE COURT: And you knew that?

12 DEFENDANT L. KEALOHA: Yes.

13 THE COURT: So did you know then that that loan
14 application Form 1003, did you know, first, that it stated that
15 you and your wife are receiving over 2700 per month in rental
16 income and, secondly, that that was a false claim?

17 DEFENDANT L. KEALOHA: Yes.

18 THE COURT: And you did that for the purpose of
19 increasing your chances of having your loan application
20 accepted?

21 DEFENDANT L. KEALOHA: Yes.

22 THE COURT: In other words, you were trying to make
23 yourself look like you had sufficient income from that source
24 in addition to your regular income from HPD and so forth to
25 qualify for the loan; is that --

1 DEFENDANT L. KEALOHA: Yes, sir.

2 THE COURT: Is that a fair statement?

3 DEFENDANT L. KEALOHA: Yes.

4 THE COURT: And you knew that was false?

5 DEFENDANT L. KEALOHA: Yes.

6 THE COURT: Okay. And you don't dispute that the
7 credit union at the time had its accounts insured by the
8 National Credit Union Administration?

9 DEFENDANT L. KEALOHA: Yes.

10 THE COURT: Do you agree with that?

11 DEFENDANT L. KEALOHA: Yes, sir.

12 THE COURT: Okay. Do you also agree then that you and
13 your wife engaged in this activity together?

14 DEFENDANT L. KEALOHA: Yes.

15 THE COURT: Is that right?

16 DEFENDANT L. KEALOHA: Yes.

17 THE COURT: You knew the statement regarding the
18 rental income was false?

19 DEFENDANT L. KEALOHA: Yes.

20 THE COURT: You also agreed the statements were
21 material, that is they had a natural tendency to influence or
22 were capable of influencing the credit union to accept and
23 approve the loan application?

24 DEFENDANT L. KEALOHA: Yes.

25 THE COURT: And do you also agree you acted with the

1 intent to defraud?

2 DEFENDANT L. KEALOHA: Yes.

3 THE COURT: And that the financial institution was
4 federally insured?

5 DEFENDANT L. KEALOHA: Yes.

6 THE COURT: All right. Are both counsel satisfied
7 with that factual basis?

8 MR. WHEAT: United States is satisfied, Your Honor.
9 Thank you.

10 MR. BARBEE: Yes, Your Honor.

11 THE COURT: All right. Is there anything else counsel
12 believes I should cover in either the plea agreement or the
13 sentencing agreement and appellate waiver?

14 MR. BARBEE: Just on Page 13, Your Honor.

15 MR. WHEAT: I was going to mention it.

16 THE COURT: Okay. Of what, Mr. Barbee?

17 MR. BARBEE: The correction that the Court made this
18 morning that it's Page 13 of the sentencing agreement, that the
19 last line should refer to factual stipulations in Paragraph 2.

20 THE COURT: Right.

21 MR. BARBEE: And Mr. Kealoha and I both affixed our
22 initials.

23 THE COURT: Right.

24 MR. WHEAT: As did I.

25 THE COURT: Okay. So that was just a typo, correct?

1 MR. BARBEE: Yes.

2 THE COURT: To be clear.

3 MR. BARBEE: Yes.

4 THE COURT: Right? Okay. So you understand, as we
5 talked about this earlier, I think, Mr. Kealoha, that the
6 factual stipulation in Paragraph 2 of the sentencing agreement
7 and appellate waiver is the one in which you agree that ECF
8 docket 888, the final presentence report, the facts in that
9 report are true and accurate, right?

10 DEFENDANT L. KEALOHA: Yes.

11 THE COURT: Okay. You understand you're admitting
12 that and those facts can be used against you in any future
13 proceeding if you breach either the plea agreement or the
14 sentencing agreement and waiver?

15 DEFENDANT L. KEALOHA: Yes, sir.

16 THE COURT: Okay. Anything else then or is that it?

17 MR. WHEAT: No, Your Honor.

18 MR. BARBEE: No, Your Honor.

19 THE COURT: All right. Mr. Kealoha, as to Count 4 of
20 the third superseding indictment in Criminal Number 18-00068,
21 how do you plead, guilty or not guilty?

22 DEFENDANT L. KEALOHA: Guilty.

23 THE COURT: It is the finding of the Court that the
24 defendant is competent to understand the proceedings and to
25 enter a knowing and informed plea. He understands the charge,

1 the plea is knowing and voluntary and not based on any force or
2 threat and is not based on any promise other than what is in
3 the plea agreement. And the same is true for the sentencing
4 agreement and appellate waiver.

5 The plea of guilty is supported by an independent
6 basis in fact containing each essential element of the offense.
7 Mr. Kealoha understands his rights associated with a trial, the
8 sentencing guidelines, and the other sentencing factors and the
9 maximum possible punishment. And as you have acknowledged that
10 you are in fact guilty, I accept your guilty plea and adjudge
11 you guilty of Count 4.

12 I will file the plea agreement, but as I said, reserve
13 a determination on accepting it until that presentence report
14 has been prepared.

15 So what I've done is, I talked to my probation office
16 over the lunch hour about -- thinking and then getting in touch
17 with you folks about what issues could be resolved in that
18 initial sentencing hearing. Right? What is it that should be
19 the subject of that. And then I thought we'd get together on
20 October 31st when we're supposed to get together anyways. We
21 can use that day since people have that on their calendars, at
22 least you two do.

23 MR. WHEAT: Yes.

24 THE COURT: And talk about that process then and the
25 timing. Okay. I'm hoping you folks will talk with each other

1 in the interim and try to reach an agreement as to what that
2 might look like. Okay. Obviously you should consult with
3 Probation on that as well.

4 MR. WHEAT: We'll have a telephonic hearing next week?

5 THE COURT: No, we'll just wait until the 31st.

6 MR. WHEAT: The 31st.

7 THE COURT: Is that next week?

8 MR. WHEAT: No, it's the following week. After next
9 week.

10 THE COURT: No, no, the 31st is next Thursday. So,
11 yeah, we'll meet next Thursday.

12 MR. WHEAT: Okay. Next Thursday. You're right. Time
13 flies when you're having fun.

14 THE COURT: Right. And you can appear by telephone,
15 Mr. Wheat. But I do want parties to sort of think about this,
16 what -- I don't want individual issues necessarily resolved
17 when we all get together. It's issues that cut across all four
18 defendants to be resolved.

19 And then to identify what those are and then talk
20 about briefing for those. And that can be done before the
21 draft -- the new draft presentence report comes out, right? It
22 seems to me. Because everyone knows what those issues are
23 right now.

24 The big one being, obviously, which guideline applies.
25 And Mr. Wheat's taken the position, you know, the 2H can still

1 apply and the specific offense characteristics for that, and
2 the defense is saying no to that. And that's really the big
3 one.

4 MR. BARBEE: Yeah, that goes with all four defendants,
5 I think.

6 THE COURT: That goes with all four defendants. And
7 then if 2J applies, but not 2H, what does restitution look
8 like. And that'll be another issue I suppose maybe that needs
9 to be addressed. But if there are other issues that cut across
10 all four and you can think of those and we can try to get those
11 resolved, if they're appropriate for resolution at that stage.

12 MR. WHEAT: Understood.

13 THE COURT: All right? Okay. Bail status?

14 MR. BARBEE: Your Honor, we'd request that conditions
15 of release presently in place remain in place.

16 MR. WHEAT: No opposition.

17 THE COURT: All right. So I have talked to the
18 Pretrial Services officer. I've been told that you've been in
19 compliance with your conditions of release, Mr. Kealoha. So I
20 will permit you to stay out on bail under the current
21 conditions of release.

22 DEFENDANT L. KEALOHA: Thank you, sir.

23 THE COURT: I just remind you as always, make sure you
24 do comply.

25 DEFENDANT L. KEALOHA: I will comply.

1 THE COURT: Okay. All right. Anything further then
2 to take up today?

3 MR. WHEAT: No, Your Honor.

4 MR. BARBEE: No, Your Honor.

5 THE COURT: All right. Thank you all. Court's in
6 recess.

7 (The proceedings concluded at 3:13 p.m.,
8 October 22, 2019.)

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1 COURT REPORTER'S CERTIFICATE

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3 I, CYNTHIA FAZIO, Official Court Reporter, United
4 States District Court, District of Hawaii, do hereby certify
5 that pursuant to 28 U.S.C. §753 the foregoing pages is a
6 complete, true, and correct transcript of the stenographically
7 reported proceedings held in the above-entitled matter and that
8 the transcript page format is in conformance with the
9 regulations of the Judicial Conference of the United States.

10

DATED at Honolulu, Hawaii, December 12, 2019.

11

12

13 /s/ Cynthia Fazio
14 CYNTHIA FAZIO, RMR, CRR, CRC

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